

CORRECTED FISCAL MEMORANDUM

HB 3148 – SB 3754

April 29, 2008

SUMMARY OF AMENDMENT (016208): Deletes all language after the enacting clause. Broadens the definition of “dangerous felony” to include criminal attempt for first degree murder, second degree murder, aggravated assault, aggravated robbery, aggravated arson, and burglary.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures - \$68,997,700/Incarceration*

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

On April 16, 2008, we issued a fiscal memorandum on this amendment indicating *an increase in state expenditures of \$132,265,100/Incarceration**. Based on additional information from the Department of Correction, the fiscal impact of the bill with the proposed amendment is as follows:

Increase State Expenditures - \$72,428,100/Incarceration*

Assumptions applied to amendment:

- Currently it is a Class D felony for a person to possess a firearm with the intent to go armed during the commission of or attempt to commit a dangerous felony. It is a Class C felony to employ a firearm during the commission of, attempt to commit, flight or escape from the commission of, or flight or escape from the attempt to commit a dangerous felony. The minimum sentences range from three to 10 years, depending on the defendant’s criminal history.
- During FY07, there were 3,099 offenders admitted for the offenses being added as dangerous felonies. Based on previous estimates, approximately two and one-half percent of those offenders had possession as a second offense (77). According to the U.S. Census Bureau, population growth in Tennessee has been 1.09 percent per year for the past 10 years, yielding a projected compound population growth of 13.6 percent over the next 10 years. Population growth will result in nine additional offenders in the tenth year. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 86

offenders. The Department of Correction (DOC) estimates 25 percent of those had a prior conviction (22). Admissions include the offenses and attempts. According to the DOC, the average operating cost per inmate per day for calendar year 2008 is \$62.78. The cost per inmate at 4.25 years is \$97,454.02 ($\$62.78 \times 1,552.31$ days). The total additional operating cost for 22 offenders in the tenth year is \$2,143,988.44 ($\$97,454.02 \times 22$). The remaining 64 offenders would serve a three-year minimum sentence at 85 percent (2.55 years). The cost per inmate at 2.55 years is \$58,472.66 ($\62.78×931.39 days). The total additional operating cost for 64 offenders in the tenth year is \$3,742,250.24 ($\$58,472.66 \times 64$).

- During FY07, 161 offenders were admitted for second degree murder. DOC estimates 50 percent of those involved the employment of a firearm (81). Population growth will result in nine additional offenders in the tenth year. The maximum cost in the tenth year is based on 90 offenders. DOC estimates 25 percent of those had a prior conviction (23) and will serve a 10-year minimum sentence at 85 percent (8.5 years). The cost per inmate at 8.5 years is \$194,908.67 ($\$62.78 \times 3,104.63$ days). The total additional operating cost for 23 offenders is \$4,482,899.41 ($\$194,908.67 \times 23$). The remaining 67 offenders will serve a six-year minimum sentence at 85 percent (5.1 years). The cost per inmate at 5.1 years is \$116,945.33 ($\$62.78 \times 1,862.78$ days). The total additional operating cost for 67 offenders is \$7,835,337.11 ($\$116,945.33 \times 67$).
- During FY07, 36 offenders were admitted for criminal attempt first degree murder. DOC estimates 50 percent of those involved the employment of a firearm (18). Population growth will result in two additional offenders in the tenth year. The maximum cost in the tenth year is based on 20 offenders. DOC estimates 25 percent of those had a prior conviction (5) and will serve a 10-year minimum sentence at 85 percent (8.5 years). The cost per inmate at 8.5 years is \$194,908.67 ($\$62.78 \times 3,104.63$ days). The total additional operating cost for five offenders is \$974,543.35 ($\$194,908.67 \times 5$). The remaining 15 offenders will serve a six-year minimum sentence at 85 percent (5.1 years). The cost per inmate at 5.1 years is \$116,945.33 ($\$62.78 \times 1,862.78$ days). The total additional operating cost for 15 offenders is \$1,754,179.95 ($\$116,945.33 \times 15$).
- During FY07, 890 offenders were admitted for aggravated robbery. DOC estimates 15 percent of those offenders could also be charged with possession of a firearm (134). Population growth will result in 16 additional offenders in the tenth year. The maximum cost in the tenth year is based on 150 offenders. DOC estimates 25 percent of those had a prior conviction (38) and will serve a 10-year minimum sentence at 85 percent (8.5 years). The cost per inmate at 8.5 years is \$194,908.67 ($\$62.78 \times 3,104.63$ days). The total additional operating cost for 38

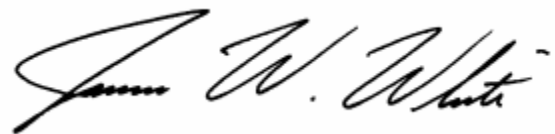
offenders is \$7,406,529.46 (\$194,908.67 x 38). The remaining 112 offenders will serve a six-year minimum sentence at 85 percent (5.1 years). The cost per inmate at 5.1 years is \$116,945.33 (\$62.78 x 1,862.78 days). The total additional operating cost for 112 offenders is \$13,097,876.96 (\$116,945.33 x 112).

- During FY07, 1,018 offenders were admitted for aggravated assault. DOC estimates 20 percent of those could also be charged with possession of a firearm (204). Population growth will result in 23 additional offenders in the tenth year. The maximum cost in the tenth year is based on 227 offenders. DOC estimates 25 percent of those had a prior conviction (57) and will serve a 10-year minimum sentence at 85 percent (8.5 years). The cost per inmate at 8.5 years is \$194,908.67 (\$62.78 x 3,104.63 days). The total additional operating cost for 57 offenders is \$11,109,794.19 (\$194,908.67 x 57). The remaining 170 offenders will serve a six-year minimum sentence at 85 percent (5.1 years). The cost per inmate at 5.1 years is \$116,945.33 (\$62.78 x 1,862.78 days). The total additional operating cost for 170 offenders is \$19,880,706.10 (\$116,945.33 x 170).
- Any cost associated with the caseloads for the state trial courts can be accommodated within existing judicial resources.

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

/lsc